

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
LESLYE KNOX, Individually, and as Natural Guardian :
of Plaintiffs Jordan Terrell Ellis, Reuven Carter, :
Shanon Carter, Shayrah Carter, Yoshavyah Carter and :
Amitai Carter, JORDAN TERRELL ELLIS, minor, :
REUVEN CARTER, minor, SHANON CARTER, minor, :
SHAYRAH CARTER, minor, YOSHAVYAH CARTER, :
minor, AMITAI CARTER, minor, by their Next Friend and :
Guardian Leslye Knox, and TSAPHRIRAH ELLIS, :

Plaintiffs-Judgment Creditors, :

- against - :

THE BANK OF NEW YORK, :

Defendant-Garnishee, :

PALESTINE MONETARY AUTHORITY, :

Intervenor. :
-----X

Civil Action No. 07-3349

Hon. V. Marrero

**AFFIRMATION IN SUPPORT
OF MOTION TO STRIKE
PLAINTIFFS' COUNTERCLAIM**

Scott R. Emery, an attorney admitted to practice law before the Courts of the State
of New York, hereby affirms the truth of the following under the penalties of perjury:

1. I am a member of Lynch Daskal Emery LLP, attorneys for intervenor
Palestinian Monetary Authority ("PMA"), and I am fully familiar with the facts and
circumstances of the within action based upon file material contained within our offices.

2. This affirmation is submitted in support of the instant motion, pursuant to
Federal Rules of Civil Procedure Rule 12(f), Rule 13, and the inherent authority of this
Court, to strike the plaintiffs' counterclaim because PMA has not asserted any claims
against the plaintiffs, and, therefore, a counterclaim is procedurally improper,
impertinent, and immaterial.

3. On April 26, 2007, plaintiffs filed a Complaint seeking turnover of seized PMA clearance funds that were improperly suspended by the Bank of New York (“BNY”) in response to a Writ of Execution served in the *Knox* Action, *i.e.* *Knox v. Palestinian Authority*, 03 Civ. 4466 (VM)(THK) (S.D.N.Y.). Attached hereto as Exhibit “A” is a copy of plaintiffs’ Complaint.

4. PMA brought an Order to Show Cause seeking, *inter alia*, leave to intervene to obtain confirmation from this Court that the Writ of Execution dated February 14, 2007 has no bearing on any PMA clearance funds suspended by the BNY. Attached hereto as Exhibit “B” is a copy of PMA’s Order to Show Cause without exhibits.

5. On June 1, 2007, this Court granted PMA’s Order to Show Cause to the limited extent that PMA was permitted to intervene. There was no written Order, however, attached hereto as Exhibit “C” is the Court’s Memorandum to the Docket Clerk, filed June 11, 2007.


6. Although PMA has intervened in the instant action, PMA has not served any pleadings and has not made any claims against the plaintiffs.

7. On or about June 21, 2007, notwithstanding the fact that PMA had not brought any claims against plaintiffs, plaintiffs served a “counterclaim” on PMA. That legally improper counterclaim is the basis of the instant motion. A copy of the counterclaim is attached hereto as Exhibit “D”.

8. For the reasons set forth in this Affirmation and the accompanying Memorandum of Law, it is respectfully submitted that the instant motion, pursuant to F.R.C.P. Rule 12(f), Rule 13, and the inherent authority of the Court, to strike the

counterclaim of plaintiffs' be granted in its entirety along with such other and further relief as this Court deems just and proper.

Dated: New York, New York
July 3, 2007



Scott R. Emery (SE-6293)